

USCIS and Department of State Consular Affairs National Immigration Conference

EB-5 Presentation

April 2015



General Overview

- What is EB-5?
- Pathways to Investment
- Process for Investment
 - The Investor
 - The Regional Center



What is the Immigrant Investor (EB-5) Program?

Congress established the Immigrant Investor Program in 1990 to bring new investment capital into the country and to create new jobs for U.S. workers. The Program is referred to as the "EB-5" program because it is the 5th preference category of employment-based immigration.

Immigrants who invest their capital in job-creating businesses and projects in the United States receive conditional permanent resident status in the United States for a two-year period. Generally, the investment vehicle for an immigrant investor is an equity investment in a new commercial enterprise (NCE).

After two years, if the immigrants have satisfied the conditions of the EB-5 Program and other criteria of eligibility, the conditions are removed and the immigrants' become unconditional lawful permanent residents of the United States.

The minimum capital investment for the Program is \$1 million which is lowered to \$500,000 if the investment is made in a Targeted Employment Area (TEA) – either a rural area or an area of high unemployment (150% of the national average).



Two Pathways for EB-5 Investment

Standalone Investment

Within a TEA

- •Investment is <u>not made via a</u> <u>Regional Center</u>
- •\$500,000 minimum investment for each investor
- Must create 10 <u>direct</u> jobs per investor

Not within a TEA

- •Investment is <u>not made via a</u> Regional Center
- •\$1 million minimum investment for each investor
- Must create 10 <u>direct</u> jobs per investor

Investment within a Regional Center

Within a TEA

- •Investment <u>is made via a Regional</u> Center
- •\$500,000 minimum investment for each investor
- Must create 10 <u>direct, indirect</u> <u>and/or induced</u> jobs per investor

Not within a TEA

- •Investment <u>is made via a Regional</u> Center
- •\$1 million minimum investment for each investor
- Must create 10 <u>direct</u>, <u>indirect</u> <u>and/or induced</u> jobs per investor



Process for EB-5 Investment – The Investor

EB-5 immigrant investor files a Form I-526 to obtain conditional permanent resident status Immigrant Investor Program Office (IPO) reviews the petition and verifies all eligibility requirements, including job creation, investment of the required amount of capital, the lawful source of the investor's funds, etc.

If the I-526 petition is approved, the immigrant investor applies to consular process or adjust status and if admitted to the U.S. is admitted as a conditional permanent resident

After a period of 2 years, the immigrant investor files a Form I-829 to remove the conditions on permanent residence IPO reviews the I-829 petition and verifies that 10 jobs have been or will be created within a reasonable time and that the investment has been sustained for the required 2-year period

Process for EB-5 Investment – The Regional Center

An economic entity applies to be a USCIS-designated Regional Center with a Form I-924 IPO reviews the Regional Center's application, including the formation documents, business plan and economic analysis, and verifies compliance with current regulations and policy

If the I-924 application is approved, the Regional Center is designated for participation in the immigrant Investor program

The Regional Center submits actual projects and/or an exemplar Form I-526 for approval If the actual project and/or exemplar Form I-526 is approved, IPO may give deference to the business plan, economic analysis and/or the organizational documents for petitions connected to the approved project



EB-5 Program Improvements



EB-5 Program Improvements

Since establishment of IPO in spring 2013:

- Expanded Skills experienced adjudicators, and senior economists, corporate and immigration lawyers
- Expanded the number of corporate and immigration attorneys from the Office of Chief Counsel dedicated to counseling IPO
- Embedded Fraud Detection and National Security officers
- Issued clarifying operational and policy guidance
- Use of emails to resolve minor deficiencies
- Enhanced collaboration with law enforcement and regulatory partners
- Revamped training modules, customized training
- Robust stakeholder engagement and customer service
- Quality Assurance/ Quality Controls
 - Developed supervisory quality assurance/quality control protocols



EB-5 Statistics

- Staffing and expected staffing
- More than 650 Regional Centers
- FY 14 filings
- FY 15 filings
- Processing Times
- Economic Value of Program



EB-5 Current Events

- OIG Review
- GAO Review
- 924A Review
- Commerce Study
- Sunset of EB-5 Regional Center Program
 - Program is set to sunset on 9/30/15 without
 Congressional reauthorization.



USCIS Expedite Criteria

Expedite Requests

- Expedite Criteria
 - Severe financial loss to company or individual
 - Extreme emergent situation
 - Humanitarian situation
 - Nonprofit status of requesting organization in furtherance of the cultural and social interests of the United States
 - Department of Defense or National Interest Situation (Note: Request must come from official United States Government entity, and state that delay will be detrimental to our Government)
 - USCIS error
 - Compelling interest of USCIS





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DOS Presentation

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Worldwide Employment Fifth Preference Top Countries

(Total All Countries: worldwide number use)

FY 2015*	C 5	T 5	15	R5	Total							
China - Mainland born	18	41	6,760	0	6,819							
Vietnam	0	0	244	0	244							
China - Taiwan born	0	0	83	0	83							
India	2	2	54	0	58							
South Korea	1	0	53	0	54							
Total All Countries	36	59	7,604	0	7,699							
Through April 2015 (preliminary data)												
FY 2014	C 5	T5	I 5	R5	Total							
China - Mainland born	67	95	8,966	0	9,128							
South Korea	8	10	207	0	225							
Mexico	11	0	118	0	129							
China - Taiwan born	4	0	122	0	126							
Vietnam	0	0	121	0	121							
Total All Countries	161	155	10,375	1	10,692							
FY 2013	C 5	T 5	15	R5	Total							
China - Mainland born	156	149	6,586	4	6,895							
South Korea	3	3	358	0	364							
Mexico	9	6	130	0	145							
China - Taiwan born	4	3	129	1	137							
Venezuela	4	0	88	0	92							
Total All Countries	243	227	8,087	7	8,564							

Employment Fifth Preference

C5, T5, I5, R5 Combined

Agency	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15*
State Dept.	502	471	1,099	3,222	1,139	2,879	6,678	7,312	9,228	7,060
USCIS	300	322	344	996	746	584	962	1,252	1,464	639
Total	802	793	1,443	4,218	1,885	3,463	7,640	8,564	10,692	7,699

^{*}Through April 2015 (preliminary data)

Contact Us

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About this Presentation

- Author: USCIS OLA and DOS/CA Congressional Relations
- Date of last revision: May 11, 2015
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